

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

02 FEB 26 2002
U.S. DISTRICT COURT
N.D. OF ALABAMA
ATTN: 53

WILLIE SLEDGE, JR.,

ENTERED *obj*

Plaintiff,

FEB 26 2002

v.

CV-01-BE-3203-W

K-MART of Northport, AL.,

Defendants.

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on January 25, 2002, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed for failing to state a claim upon which relief can be granted, or seeking monetary relief from a defendant who is immune under 28 U.S.C. § 1915A(b). No objections have been filed.

The court notes that on January 30, 2002, the plaintiff filed "Motion for Appointment of Counsel." In that motion, plaintiff stated various factual allegations that in no way relate to his original claim against K-Mart and any of its security guards. Those allegations involve medical treatment and conditions of confinement for which K-Mart could have no responsibility. On February 11, 2002, the magistrate judge entered an order denying plaintiff's Motion for Appointment of Counsel, and treating the additional allegations as a motion to amend. The magistrate judge then denied the Motion to Amend because those factual allegations are totally unrelated to plaintiff's original complaint. If plaintiff filed the "Motion for Appointment of Counsel" in response to the magistrate judge's Report and Recommendation of January 25, 2002,

that response was totally inadequate to address the deficiencies in plaintiff's original complaint noted in the January 25, 2002 Report and Recommendation.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court is of the opinion that the magistrate judge's report of January 25, 2002, is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed for failing to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A(b). An appropriate order will be entered.

DONE this 25th day of February, 2002.



KARON O. BOWDRE
UNITED STATES DISTRICT JUDGE